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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ELIZABETH INIGUEZ, individually
and on behalf of all others similarly
situated,

Plaintiff,
vs.
F3EA FUNDING LLC dba SKY
FINANCIAL; DOES 1-10, inclusive,
and each of them

Defendant(s).

) Case No.
)
)
) CLASS ACTION
)
) COMPLAINT FOR VIOLATIONS
)
) OF:
)
)
1. NEGLIGENT VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227 ET
SEQ.]
2. WILLFUL VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227 ET
SEQ.]
)
)
) DEMAND FOR JURY TRIAL
)

Plaintiff ELIZABETH INIGUEZ (“Plaintiff”), individually and on behalf of all others similarly situated, alleges the following upon information and belief

based upon personal knowledge:

NATURE OF THE CASE

1. Plaintiff brings this action individually and on behalf of all others similarly situated seeking damages and any other available legal or equitable remedies resulting from the illegal actions of F3EA FUNDING LLC dba SKY FINANCIAL (“Defendant”) in negligently, knowingly, and/or willfully contacting Plaintiff on Plaintiff’s cellular telephone in violation of the Telephone Consumer Protection Act, *47. U.S.C. § 227 et seq.* (“TCPA”), thereby invading Plaintiff’s privacy.

JURISDICTION & VENUE

2. Jurisdiction is proper under 28 U.S.C. § 1331 because Plaintiff alleges claims under the TCPA, 47 U.S.C § 227 *et seq.*, a federal law.

3. Venue is proper in the United States District Court for the Northern District of California pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does business within the State of California and Plaintiff resides within the County of San Mateo. Further, Defendant targeted this County by calling Plaintiff.

PARTIES

4. Plaintiff, ELIZABETH INIGUEZ (“Plaintiff”), is a natural person residing in San Mateo County in the State of California and is a “person” as defined by *47 U.S.C. § 153 (39)*.

5. Defendant, F3EA FUNDING LLC dba SKY FINANCIAL (“Defendant”), is a company involved in consumer debt buying and recovery/collection and is a “person” as defined by 47 U.S.C. § 153 (39).

FACTUAL ALLEGATIONS

6. Beginning in and around March 2021, Defendant contacted Plaintiff on her cellular telephone, phone number ending in -7320, in an attempt to collect an alleged outstanding debt.

7. Defendant often left voicemail messages on Plaintiff's cellular

1 telephone if Plaintiff did not answer Defendant's calls. In these messages,
2 Defendant utilized an "artificial or prerecorded voice" as prohibited by 47 U.S.C.
3 § 227(b)(1)(A). One such voicemail message stated, "Hello, thank you for calling
4 Sky Financial. If you are calling regarding a Sky Financial personal loan please
5 press 1, if you are calling regarding a Sky Financial lease, please press 2."

6 8. Defendant's calls constituted calls that were not for emergency
7 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

8 9. Defendant's calls were placed to telephone number assigned to a
9 cellular telephone service for which Plaintiff incurs a charge for incoming calls
10 pursuant to *47 U.S.C. § 227(b)(1)*.

11 10. Plaintiff had no prior relationship with Defendant. Accordingly,
12 Defendant never received Plaintiff's "prior express consent" to receive calls using
13 an automatic telephone dialing system or an artificial or prerecorded voice on her
14 cellular telephone pursuant to *47 U.S.C. § 227(b)(1)(A)*.

CLASS ALLEGATIONS

16 11. Plaintiff brings this action individually and on behalf of all others
17 similarly situated, as a member of the proposed class (hereafter "The Class")
18 defined as follows:

20 All persons within the United States who received any
21 collections telephone calls from Defendant to said
22 person's cellular telephone made through the use of any
23 automatic telephone dialing system or an artificial or
24 prerecorded voice and such person had not previously
consented to receiving such calls within the four years
prior to the filing of this Complaint

26 12. Plaintiff represents, and is a member of, The Class, consisting of All
27 persons within the United States who received any collection telephone calls from
28 Defendant to said person's cellular telephone made through the use of any

1 automatic telephone dialing system or an artificial or prerecorded voice and such
2 person had not previously not provided their cellular telephone number to
3 Defendant within the four years prior to the filing of this Complaint.

4 13. Defendant, its employees and agents are excluded from The Class.
5 Plaintiff does not know the number of members in The Class, but believes the Class
6 members number in the thousands, if not more. Thus, this matter should be
7 certified as a Class Action to assist in the expeditious litigation of the matter.

8 14. The Class is so numerous that the individual joinder of all of its
9 members is impractical. While the exact number and identities of The Class
10 members are unknown to Plaintiff at this time and can only be ascertained through
11 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
12 The Class includes thousands of members. Plaintiff alleges that The Class
13 members may be ascertained by the records maintained by Defendant.

14 15. Plaintiff and members of The Class were harmed by the acts of
15 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
16 and Class members via their cellular telephones thereby causing Plaintiff and Class
17 members to incur certain charges or reduced telephone time for which Plaintiff and
18 Class members had previously paid by having to retrieve or administer messages
19 left by Defendant during those illegal calls, and invading the privacy of said
20 Plaintiff and Class members.

21 16. Common questions of fact and law exist as to all members of The
22 Class which predominate over any questions affecting only individual members of
23 The Class. These common legal and factual questions, which do not vary between
24 Class members, and which may be determined without reference to the individual
25 circumstances of any Class members, include, but are not limited to, the following:

26 a. Whether, within the four years prior to the filing of this
27 Complaint, Defendant made any collection call (other than a
28 call made for emergency purposes or made with the prior

1 express consent of the called party) to a Class member using
2 any automatic telephone dialing system or any artificial or
3 prerecorded voice to any telephone number assigned to a
4 cellular telephone service;

- 5 b. Whether Plaintiff and the Class members were damages
6 thereby, and the extent of damages for such violation; and
7 c. Whether Defendant should be enjoined from engaging in such
8 conduct in the future.

9 17. As a person that received numerous collection calls from Defendant
10 using an automatic telephone dialing system or an artificial or prerecorded voice,
11 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
12 typical of The Class.

13 18. Plaintiff will fairly and adequately protect the interests of the members
14 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
15 class actions.

16 19. A class action is superior to other available methods of fair and
17 efficient adjudication of this controversy, since individual litigation of the claims
18 of all Class members is impracticable. Even if every Class member could afford
19 individual litigation, the court system could not. It would be unduly burdensome to
20 the courts in which individual litigation of numerous issues would proceed.
21 Individualized litigation would also present the potential for varying, inconsistent,
22 or contradictory judgments and would magnify the delay and expense to all parties
23 and to the court system resulting from multiple trials of the same complex factual
24 issues. By contrast, the conduct of this action as a class action presents fewer
25 management difficulties, conserves the resources of the parties and of the court
26 system, and protects the rights of each Class member.

27 20. The prosecution of separate actions by individual Class members
28 would create a risk of adjudications with respect to them that would, as a practical

1 matter, be dispositive of the interests of the other Class members not parties to such
2 adjudications or that would substantially impair or impede the ability of such non-
3 party Class members to protect their interests.

4 21. Defendant has acted or refused to act in respects generally applicable
5 to The Class, thereby making appropriate final and injunctive relief with regard to
6 the members of the California Class as a whole.

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

10 22. Plaintiff repeats and incorporates by reference into this cause of action
11 the allegations set forth above at Paragraphs 1-21.

12 23. The foregoing acts and omissions of Defendant constitute numerous
13 and multiple negligent violations of the TCPA, including but not limited to each
14 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

15 24. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
16 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
17 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

18 25. Plaintiff and the Class members are also entitled to and seek injunctive
19 relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection

Act

47 U.S.C. §227 et seq.

24 26. Plaintiff repeats and incorporates by reference into this cause of action
25 the allegations set forth above at Paragraphs 1-25.

26 27. The foregoing acts and omissions of Defendant constitute numerous
27 and multiple knowing and/or willful violations of the TCPA, including but not
28 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*

seq.

28. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

29. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's negligent violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B).
 - Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection

Act

47 U.S.C. §227 et seq.

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
 - Any and all other relief that the Court deems just and proper.

JURY DEMAND

30. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully Submitted this 21st day of January 2022.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman
Todd M. Friedman
Law Offices of Todd M. Friedman
Attorney for Plaintiff